

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ERIC LEE ERICKSON

Plaintiff,

v.

JOSEPH LEHMAN, et. al.,

Defendants.

CASE NO. C05-867JLR-MJB

REPORT AND RECOMMENDATION

**I. INTRODUCTION AND SUMMARY CONCLUSION**

Plaintiff files this 42 U.S.C. § 1983 action seeking \$5,000,000 and challenging the fact and duration of his confinement as false imprisonment under the Fourteenth Amendment “guarantees of Liberty Interest to live freely as an American Citizen.” Dkt. # 11 at 4. Plaintiff was granted leave to proceed *in forma pauperis* and lodged his Title 42 U.S.C. § 1983 Complaint with this Court on May 24, 2005. Dkt. # 9. On July 11, 2005, Plaintiff filed an Amended Complaint. Dkt. # 11. The gravamen of his complaint is that after serving one sentence, but still under the jurisdiction of another court for a separate criminal conviction, he was remanded to custody for violation of community placement. Dkt. # 21. at 2, Dkt. # 11 at 3-4. Plaintiff couches this as a violation of his good time credits and earned early release. Now before the Court is the Defendant’s Motion for Summary Judgment seeking dismissal of all Plaintiff’s claims Dkt. # 21. Plaintiff has filed a response in opposition to Defendant’s Motion (Dkt. # 22) and Defendant has filed a Reply (dkt. # 24). Having considered these pleadings and the

1 remainder of the record, the undersigned recommends that the Defendant's Motion for  
2 Summary Judgment be granted and this action dismissed.

## 3 II. DISCUSSION

### 4 A. Grounds for Summary Judgment

5 Defendant claims that Plaintiff cannot demonstrate that he has been discharged  
6 from his judgment and sentence, nor that any order by the Superior Court which  
7 returned him to custody has been vacated or overturned on appeal. Dkt. # 21 at 2.  
8 Respondent also argues that Plaintiff's claims are barred by the statute of limitations,  
9 that Secretary Lehman has qualified immunity and is protected under the theory of  
10 *respondeat superior*, and lastly that the Eleventh Amendment shields the State of  
11 Washington's Department of Corrections from actions under Section 1983.

12 Given the court's conclusion below under *Heck v. Humphrey*, it is unnecessary to  
13 rule on Defendant's remaining arguments.

### 14 B. Standard of Review

#### 15 Summary judgment

16 "One of the primary purposes of the summary judgment rule [Federal Rule of  
17 Civil Procedure 56] is to isolate and dispose of factually unsupported claims or  
18 defenses." *Celotex Corp. v. Catrett*, 417 U.S. 317, 323-24 (1986). Summary judgment  
19 is appropriate if there is no genuine issue of material fact, and the moving party is  
20 entitled to judgment as a matter of law. *Swayze v. United States*, 785 F.2d 715, 717 (9th  
21 Cir. 1986) (citing Fed. R. Civ. P. 56(c)). The standard provided by Rule 56 requires not  
22 only that there be some alleged factual disputes between the parties, but also that there  
23 be genuine issues of material fact. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-  
24 48 (1986). Genuine disputes are those for which the evidence is such that "a reasonable  
25 jury could return a verdict for the nonmoving party." *Anderson*, 477 U.S. at 248.  
26 Material facts are those which might affect the outcome of the suit under governing law.

1 *Id.*

2 C. Section 1983 bar under *Heck v. Humphrey*.

3       Where a prisoner challenges the fact or duration of his confinement, his sole  
4 federal remedy is a writ of habeas corpus, to which the exhaustion requirement applies.  
5 *Preiser v. Rodriguez*, 411 U.S. 475, 489-90 (1973); *Young v. Kenny*, 907 F.2d 874, 875  
6 (9th Cir. 1990), *cert. denied*, 498 U.S. 1126 (1991). In *Heck v. Humphrey*, 512 U.S.  
7 477 (1994), the United States Supreme Court held that a § 1983 claim for damages that  
8 calls into question the lawfulness of a plaintiff's conviction or confinement does not  
9 accrue "unless and until the conviction or sentence is reversed, expunged, invalidated, or  
10 impugned by the grant of a writ of habeas corpus." *Id.* at 489.

11       Respondent has argued that Plaintiff has failed to demonstrate that his claims  
12 against Lehman and the Department of corrections are not barred by *Heck*. The court  
13 agrees. The allegations set forth in the Complaint and Amended Complaint arise out of  
14 community placement violations and the subsequent punitive consequences governed by  
15 state sentencing statutes. A decision on these claims would call into question the  
16 validity of Plaintiff's present confinement, not the conditions of his confinement that are  
17 required by Title 42 U.S.C. § 1983. Therefore, Plaintiff's claim is barred by *Heck* and  
18 should be dismissed.

### 19                                   **III. CONCLUSION**

20       For the reasons set forth above, I recommend that Defendant's Motion for  
21 Summary Judgment (Dkt. # 21) be GRANTED and that this action be DISMISSED. A  
22 proposed Order accompanies this Report and Recommendation.

23       DATED this 29th day of June, 2006.



24  
25                                   MONICA J. BENTON  
26                                   United States Magistrate Judge